

EXHIBIT 12

1 UNITED STATES DISTRICT COURT
2 MIDDLE DISTRICT OF FLORIDA
3 ORLANDO DIVISION

4 UNITED STATES OF AMERICA,

5 Plaintiff,

6 v.

7 BRIAN PATRICK DURNING,

8 Defendant.
9

Case Number:

6:22-cr-00102-WVB-RMN-1

Orlando, Florida

September 26, 2023

3:48 P.M. - 6:12 P.M.

10
11 REDACTED TRANSCRIPT OF SENTENCING
12 BEFORE THE HONORABLE WENDY W. BERGER
13 UNITED STATES DISTRICT JUDGE

14 APPEARANCES:

15 For the Plaintiff:

Michael Felicetta
Courtney D. Richardson-Jones
U.S. ATTORNEY'S OFFICE
400 West Washington Street
Suite 3100
Orlando, Florida 32801

17 For the Defendant:

Jeremy Lasnetski
John Gihon
LASNETSKI GIHON LAW
121 West Forsyth Street
Suite 520
Jacksonville, Florida 32202

21 Proceedings recorded by real-time mechanical stenography.
22 Transcript produced by computer-aided transcription.

23 Stenographically reported before:
24 Heather Suarez, RDR, CRR, FCRR, FPR-C, WA CCR, CA CSR
25 WA CCR #23017624 | CA CSR#14538
(407) 801-8921 | heathersuarez.usocr@gmail.com
PO Box 3574, Orlando, Florida 32802

P R O C E E D I N G S

(Proceedings commenced at 3:48 P.M.)

THE COURTROOM DEPUTY: Case Number 6:22-cr-102,
United States of America v. Brian Patrick Durning.

Counsel, please state your appearances for the
record.

MR. FELICETTA: Good afternoon, Your Honor.
Michael Felicetta, Courtney Richardson-Jones on behalf of the
Government. We're joined at counsel table by Special
Agent David D'Arcangelis with the FBI.

THE COURT: Okay.

MR. LASNETSKI: Good afternoon, Your Honor.
Jeremy Lasnetski here on behalf of Brian Durning, and my law
partner John Gihon is with us as well.

THE COURT: Okay. All right. Mr. Durning, can you
raise your right hand for me, please, sir. Do you swear -- you
don't have to stand.

(Defendant sworn.)

THE COURT: All right. Mr. Durning, back on
June 22nd of this year, a jury found you guilty of the lesser
included offenses in Counts 1 and 3 of the superseding
indictment, charging you with -- finding you guilty of simple
assault, in violation of Title 49 of the United States Code,
Sections 46506, and Title 18 of the United States Code,
Sections 113(a)(5); and Count 2 of the superseding indictment,

1 I don't know if I -- if I'm in that. I know that I'm not.
2 That is amazing, and that is a testament not to him on a bad
3 day, not to him having a bad week -- that is a testament to his
4 52 years of living and most likely to his mother and father and
5 his stepfather in the back row.

6 Again, I appreciate the opportunity to speak to you.
7 Thank you.

8 **THE COURT:** Thank you.

9 **MR. LASNETSKI:** Your Honor, Mr. Durning would like to
10 speak to the Court.

11 **THE COURT:** All right. Come on up, Mr. Durning.

12 **THE DEFENDANT:** Good afternoon, Your Honor.

13 **THE COURT:** Good afternoon.

14 **THE DEFENDANT:** Thank you for the opportunity to
15 address this Court.

16 I'd like to say at the very beginning, I am sincerely
17 sorry for Miss B■■'s distress not only that evening, her
18 family, and then thereafter. There was no way on God's green
19 earth I ever would think to -- that I could even possibly
20 create this; and yet I did, and for that I am sorry.

21 I had absolutely -- I am -- very quickly had a
22 misguided effort to simply sleep on the plane, get comfortable.
23 I had alcohol at the -- excuse me -- at the airport bar, did
24 take a sleeping pill some hour or so after the plane was taking
25 off, and then there afterwards had a glass of wine. I made a

1 terrible choice regarding alcohol. That is -- that is on me.
2 And, unfortunately, yes, I have done that in the past. This
3 time compounded it by mixing alcohol with medication.

4 Again, I am very ashamed to have created a painful
5 experience for anybody, much less a young person who is
6 starting out -- for all practical purposes, starting their
7 life. And I do reflect. I do pray for this young lady, for
8 her family, for their comfort, and for them to receive God's
9 blessings in their continued journey of their own lives.

10 Since last year -- and last year, meaning since about
11 the time of the arrest, I've been on a very -- 24-7 mission to
12 become the best Brian Patrick Durning that I can be. And for
13 me what does that entail? That entails mentally, spiritually,
14 and physically. This is a conscientious effort that I do every
15 single moment of day right up to standing here in front of you.
16 And if I could just quickly break down what that means to me.

17 Upon my return to California, on the mental side, I
18 went, as David just mentioned, diligently working on my craft
19 day and night; and my craft is providing the fitness industry
20 with both real estate and equipment services -- fitness
21 equipment, obviously. I began this some couple months prior to
22 15 months ago, before boarding the plane, and had a little
23 hiccup, you know, in business. Stopped for a bit, and I got
24 back to it. And I was blessed to develop this with, you know,
25 a lot of help from David and just visiting hundreds of sites

1 throughout Southern California; had just personal belief,
2 dedication, and was able to create a respectable living out of
3 this, which is currently at its infancy. Organizing this was
4 my mental framework seven days a week.

5 Spiritually, right about one year ago, probably
6 13 months ago or so, I engaged in deep therapy at Livingood --
7 Livingood Center, which is in Costa Mesa, California. I
8 started that out three days a week, three hours per session.
9 That eventually went to two days a week, two hours per session
10 right up through the week before trial. Through this process I
11 just came to, in a nutshell, discover that self-patience plus
12 discipline usually will equal peace and prosperity.

13 Every single day and to right now I practice
14 medication, journaling, reading, and gratitude for the
15 blessings that we receive every day, something as simple as a
16 glass of water, a nice day outside, all the small things.

17 One of the blessings that I did receive along this
18 way was to reengage my faith. I honestly hadn't attended
19 regular church services in years. Did so. And I started going
20 just, you know, twice a week. And then oftentimes, because I
21 have a flexible schedule, I would just stop in to a church many
22 times, just being alone in the building and kind of a
23 reflection time one on one with God, if you will.

24 Finally, I found a home at -- church-wise at Sacred
25 Heart Catholic Church in Altadena, California. Been very

1 blessed to take counsel with Father Gilbert Guzmán with him up
2 until the trial date. Very excited to -- you know, I
3 noticed -- talked to him and noticed there's a lot of people
4 there by themselves, and so one of the things I'd like to -- or
5 will be doing when I get back there is kind of just -- you
6 know, kind of have a group for those of us who are just alone
7 at mass per se or don't have a number of family members to
8 attend with and look forward to being of service in other ways
9 that I can.

10 Physically, I embarked on -- I've always been pretty
11 active and just, you know, made a regimented effort to do
12 something five days a week. Fortunately, in California we're
13 blessed to have a lot of mountains. So I did a lot of that and
14 then just maintained a disciplined regimen of diet, sleep and
15 exercise. And my reasoning behind this is just to create the
16 most vibrant, energetic person possible and create the most
17 fulfilling days that I possibly can.

18 Socially, I just mentioned some of the things I had
19 done with my free time. You know, engage with friends on just
20 doing local mountains. Found a couple local meditation groups
21 just to check out, again, a little bit on my own. I do have,
22 out in California, a very good family -- extended family
23 relationship. My friend, Tania Carmenate -- I've been blessed
24 to be a part of her family and been doing things from Orlando's
25 90th birthday down to little Hazel's 9th birthday, and then all

1 those things in between, like Thanksgiving, Christmas, and then
2 just basic stuff of helping each other out as neighbors. You
3 know, "Can you grab this at the store for me? I'm not feeling
4 well," that type of thing.

5 And then I've been -- also, a lot of these things
6 that -- sitting here in front of you, you know, sharing these
7 with a couple gentlemen you've already heard, other folks in
8 this room, and then those who you've read some of their letters
9 that are literally around all four corners of the country.

10 Obviously --

11 **THE COURT:** And I tell you that the letters -- your
12 friends speak very highly of you, and the descriptions that
13 they give you -- give of you in their letters belies the
14 conduct that this Court sat and listened to throughout the
15 trial. And so -- I mean, I appreciate you giving a statement.
16 I want you to continue, but I just -- I mean, I read all of the
17 letters --

18 **THE DEFENDANT:** Okay.

19 **THE COURT:** -- and I wondered is this the same person
20 that -- that sat before me in a trial for three days.

21 **THE DEFENDANT:** I'm sorry. Did you want me to answer
22 or --

23 **THE COURT:** No. I'm just -- that's just in my head,
24 and I appreciate the fact that you have surrounded yourself
25 with so many people that you've been a very positive influence

1 in their life, and that's worth noting.

2 THE DEFENDANT: Thank you. I appreciate it. Would
3 you like me --

4 THE COURT: You can continue, yeah.

5 THE DEFENDANT: Thank you.

6 Obviously, June 22nd, I believe it was, of this year,
7 I've been at the Orange County correctional facilities.
8 Obviously, I knew this was a possibility and was very thankful
9 to be at my best, which I just discussed, spiritually,
10 mentally, physically. Every moment studying and change created
11 in that previous year from about the -- I have taken with me.

12 While my surroundings have changed, my mindset and
13 mission have not. And I do believe that we are not a product
14 of our surroundings; rather, our surroundings are a product of
15 us. Every day, even -- it is challenging at times; but,
16 regardless, I still engage in reading, the meditation,
17 gratitude, and the prayer all previously discussed.

18 My future plans are very laid out and much -- much of
19 what I just already said, you know, between the work, physical,
20 the spiritual.

21 I've been -- had the opportunity and what I feel is
22 the obligation to share some of my life, if you will, with
23 some -- some of my -- we'll call them "bunkies" because, you
24 know, we have an eight-man cell, and a lot of these guys are
25 younger; and, you know, they're young enough to be my sons.

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CERTIFICATE OF REPORTER

I certify that the foregoing is a correct transcript of the record of proceedings in the above-titled matter.



Heather Suarez, RDR, CRR, FCRR, FPR-C, WA CCR, CA CSR
WA CCR License #23017624 | CA CSR License #14538

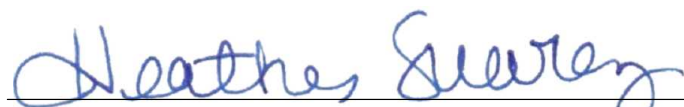
Date: 10/29/2023

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CERTIFICATE OF REDACTION

I certify that the foregoing is a true and correct copy of the transcript originally filed with the clerk of court on 10/29/2023 and incorporating redactions of personal identifiers, in accordance with Judicial Conference policy.

Redacted characters appear as a black box in the transcript.



Heather Suarez, RDR, CRR, FCRR, FPR-C, WA CCR, CA CSR
WA CCR License #23017624 | CA CSR License #14538

Date: 10/29/2023